

In accordance with FAR 12.603, the following information is provided:

- i. This is a combined synopsis/solicitation for commercial items prepared in accordance with the format in FAR Subpart 12.6, as supplemented with additional information in this notice. This announcement constitutes the only solicitation; quotes proposals are being requested and a written solicitation will not be issued.
- ii. The solicitation number is ADF-11-Q-CIO-023. This solicitation is issued as a Request for Quote (RFQ) by the U.S. African Development Foundation (USADF) in Washington, D.C. for a Personal Services Contract (PSC) for a LAN Administrator. Individuals may only apply.
- iii. The solicitation and the provisions and clauses incorporated therein are those that are in effect through Federal Acquisition Circular 2005-50, May 16, 2011.
- iv. This solicitation is a 100% set-aside for small business. The NAICS code is 541-Professional, Scientific and Technical Services /541519 Other Computer Related Services = \$25 million
- v. The list of Contract Line Items, Quantities and Unit of Measure is as follows: (*Contract Type: Firm Fixed Price will be awarded*)- **Please See Attachment 2**
- vi. The description of the requirements for the above is provided in the attachments 1 through 4.
- vii. The provisions at FAR 52.212-1, "Instructions to Offerors – Commercial," applies to this acquisition.
- viii. Award will be made to the offeror whose quote provides the best value to Government.
- ix. The offerors should include a completed copy of the provision at FAR 52.212-3, "Offeror Representations and Certifications-Commercial," with the quote. However, if the offeror's information is current and complete in the Online Representations and Certifications Application (ORCA) (www.ccr.gov), the offeror must submit a statement to that effect.
- x. FAR 52.212-4,"Contract Terms and Conditions – Commercial Items," is applicable.
- xi. FAR 52.212-5, "Contract Terms and Conditions Required to Implement Statutes or Executive Orders – Commercial Item," is applicable.
- xii. Additional requirements.
 - The offeror shall identify the point of contact who is authorized to bind to the order.
 - ADF will award one fixed price order to fulfill the requirements in this RFQ.

THE OFFERORS MUST PROVIDE A PRICE FOR EACH LINE ITEM IDENTIFIED IN SECTION ATTACHMENT 2. ADF reserves the right to withdraw; modify; or eliminate this requirement in whole, or in part, at their discretion. Alternative quotes will not be evaluated.

- ADF intends to award without discussions. Therefore, the offerors shall provide their best, complete quote with their initial submission.

- **Quote Questions:** Questions may be submitted to the Contract Specialist, Ms. Joy Hughes (Non-Fed), JHughes@usadf.gov, via email only on or **before June 20, 2011, at 2 PM Eastern Standard Time (EST)**. Follow-up/additional questions will not be accepted after this date and time. Answers to submitted questions will be provided posted. Telephone inquiries will not be addressed.

- Evaluation Factors: The quotes will be evaluated as follows:

See Attachment 2: Price Sheet

xiii. The Defense Priorities and Allocations System is not applicable.

xiv. **Quote Due Date: No later than 2:00 PM EST on June 24, 2011.** Electronic Submission: Quotes in response to this RFQ shall be submitted electronically submitted to jhughes@usadf.gov.

Attachments:

Attachment 1: Statement of Work

Attachment 2: Price Sheet

Attachment 3: Evaluation Factors

Attachment 4: FAR Provisions and Clauses

**ATTACHMENT 1:
STATEMENT OF WORK
LAN Administrator**

1. BACKGROUND/DESCRIPTION

The United States African Development Foundation is an independent Federal agency established to support African-designed and African-driven solutions that address grassroots economic and social problems. The grants help organizations create tangible benefits such as increasing or sustaining the number of jobs in a community, improving income levels, and addressing social development needs. USADF is a public corporation with a seven member Board of Directors who are nominated by the U.S. President and confirmed by the U.S. Senate.

2. SUMMARY OF COMPUTER SERVICES

The requirement is for a Personal Services Contract (PSC) to provide for on-site information technology services and technical support for the ongoing maintenance and administration of the Foundation's IT infrastructure providing mission critical e-mail services, file sharing, and Internet services. The services are primarily engaged in providing on-site management and operation of clients' computer systems and/or data processing facilities.

These services are to provide professional advice and assistance to ADF management and staff, both in Washington D.C. These on-site computer support services are required to provide for direct maintenance and system-wide enhancements to ensure ADF's efficiency, and ongoing productivity.

2.1 ADF's CURRENT TECHNOLOGY ENVIRONMENT

ADF is a Federal grant-making public independent corporation and can be characterized as a micro-agency with approximately 150 staff members both here and in Africa. Approximately 50 of these staff members are here in Washington, the rest are locally-hired contractors in Africa.

To support its mission and the work of its staff, the Foundation operates an internal computer network. Network integrity and reliability is critical to ADF's operations and e-mail and Internet connectivity is critical to ADF's ability to work with its partners and clients throughout Africa. The ADF network is best characterized as a Local Area Network (LAN) and includes various servers, client computers, printers, firewalls, intrusion detection systems, offline storage devices, routers, switches and other devices deployed both in our offices in Washington, DC, and in Africa. The internal network utilizes Microsoft Windows operating systems and application software.

2.2 ADF's IT SECURITY MANAGEMENT

ADF's LAN and systems run within a very secure but unclassified environment that maintains compliance with security requirements defined by FISMA.

3. TASKS

The Contractor shall include the provision of professional computer support services and assistance to supplement existing in-house support staff in conducting daily IT operations.

3.1 SPECIFIC TASKS

1. Monitor, maintain and administer Foundation IT and Telecommunications Services to ensure availability, security, and reliability of mission-critical and core network services. Foundation IT Services include (but are not limited to):
 - Active Directory Domain Services (Accounts creation, passwords reset etc.)
 - Microsoft Exchange Messaging Services (Email and Blackberry)
 - File Sharing Services
 - Microsoft Office 2010 suite of Applications
 - Remote users support
 - Cisco Voice Over IP (VOIP) Support
 - Image, troubleshoot and deploy desktops
 - Monitor and document network related problems
2. Manage backend maintenance and administration operations to ensure that the Foundation's IT Infrastructure is secure, backed up, and in conformance with federal regulations. Backend management functions include (but are not limited to):
 - Management of server backups and off-site archiving
 - Management of enterprise-wide Antivirus services
 - Regular and timely patching of servers and workstations to mitigate security vulnerabilities.
3. Provide Help Desk Customer Support Services for all IT support issues for on-site personnel and overseas users, as needed. Typical support requests may include:
 - Account administration, password resets, account unlocking
 - Desktop support and troubleshooting
 - Application installation and troubleshooting
 - Hardware break-fix repair.
4. Provide Mission Critical After-Hours Support on an as-needed basis to ensure availability of IT Services in response to emergencies that impact mission-critical services or disaster recovery scenarios.
5. Comply with all internal Foundation policies and external regulations including (but not limited to) the Privacy Act, e-government act of 2002, and the Federal Information Security Management Act (FISMA).
6. Provide hardware support, including normal maintenance of IT equipment and the installation of upgrades or improvements including patch management
7. Documentation of activities as assigned in support of FISMA, Certification and Accreditation, and hardware deployment projects.

4. PERFORMANCE PERIOD

The performance period of this contract is for a period of six months with the option to renew this contract for (1) one Option Period of 4 months. The estimated period of performance will be **July 7, 2011-November 30, 2011.**

5. REQUIRED SKILLS & EXPERIENCE

The Contractor personnel shall have the following skills and experience:

- A minimum of 3 years of experience working with or in a Microsoft Windows Server 2003/2008 enterprise environments based on a Microsoft Active Directory architecture.
- Basic knowledge to advanced knowledge of the following: SMTP, Microsoft Office 2010 suite of Applications, Cisco Call Manager and Unity Connection, Windows 7 and XP Professional in an Enterprise environment.
- Basic to advanced knowledge of Networking and understanding of network architecture but not limited to Ethernet (Cat 5e) cabling, DNS and DHCP, Anti-virus and Anti-Spam technologies. Knowledge of Network Management and monitoring systems.
- Excellent troubleshooting skills and extensive knowledge of desktop imaging and application deployment. Ability to perform backups and restore functions using Symantec's BackupExec software.
- Ability to communicate professionally with USADF staff as well as track/update and close effectively help desk calls.

6. CONFIDENTIALITY OF DATA

Due to the sensitivity and confidentiality of much of the data handled by ADF, the Contractor shall maintain confidentiality of all documents, data, and other information supplied to it by ADF, in accordance with all applicable Federal guidelines and regulations. The Contractor agrees, in the performance of this contract, to keep all information obtained or otherwise reviewed as a result of this contract in the strictest of confidence. The Contractor acquires no possessory and no proprietary interests in such information. The Contractor agrees not to disclose any information concerning the work under this contract to any persons or entities unless prior written approval is obtained from the Contracting Officer. The Contractor agrees not to publish, reproduce, or otherwise divulge such information in whole or in part, in any manner or form, at any time, during or following contract performance, nor to authorize or permit others to do so. The Contractor agrees to take such reasonable measures as are necessary to restrict access to such information to those employees of the Contractor needing such information to perform the work provided on this order, on a "need to know" basis. The Contractor agrees to immediately notify the COTR in the event that he or she determines, or has reason to suspect a breach of any of these requirements or restrictions, and to provide written notification as soon as possible.

Confidentiality is essential to satisfactory performance. The Contractor will prevent any person other than the Contractor's team members (or other person for whom access is necessary) from seeing or having access to information in the possession or under the control of the Contractor. The Contractor will prevent any person from disclosing the contents or description of documents,

data, or information to any person not authorized under this order or by ADF to have access to such documents or information. The Contractor will prevent removal of any documents, data, or information from the Contractor's premises without authorization by appropriate ADF officials.

Each Contractor employee performing work under this order shall sign and submit a Non-Disclosure Agreement, which identifies what is required of the Contractor with respect to non-disclosure of certain information and the penalties associated with noncompliance with those requirements. The Contractor shall provide the signed Non-Disclosure Agreements to the Contracting Officer with a copy to the COTR within five working days prior to commencing work. No Contractor employee shall begin work under this order until the COTR has accepted his/her Non-Disclosure agreement. The Contractor agrees to include similar requirements in any subcontracts, which it may enter into regarding or supporting work under this order and furnish the Contracting Officer and COTR one of each subcontractor employee's Non-Disclosure Agreement within five working days after execution of the subcontract. Any Contractor employees assigned to the order at a later date must execute a Non-Disclosure Agreement upon assignment and one executed copy shall be provided to the Contracting Officer and one to the COTR within five working days of the employees' assignment to the order. The Contractor will report to the Contracting Officer any breach of confidence by any person as soon as the breach is known.

7. DELIVERABLES OR PERFORMANCE

7.1 PLACE OF PERFORMANCE

The Statement of Work (SOW) is to be performed at ADF's Headquarters in Washington, D.C. where the primary computer operations and key security personnel are located. ADF will furnish appropriate office space, supplies, and equipment for official use only.

7.2 WORK HOURS AND OPERATION

The Contractor shall provide services during normal work hours, between 8 a.m. to 5 p.m., Monday through Friday, excluding federal holidays as listed in Section 4D.

Additional after hours support may be required, to ensure the health of IT systems and availability of IT Services. Maintenance and patching of the server and workstation infrastructure should be conducted during non-business hours to minimize impact on IT services during core business hours.

Scheduled Absences. The Contractor shall schedule absences such as vacation, continuing education and any other changes that could impact services at least 2 weeks in advance.

Unscheduled Absences. The Contractor shall notify the COTR if unable to work (e.g. illness) and make arrangements for replacements as needed.

8. CONTRACTING OFFICER'S TECHNICAL REPRESENTATIVE (COTR)

The Information Technology Office (ITO) is the designated COTR . No representation by the COTR shall serve as a basis for an alteration in the general scope of this contract or in the terms and conditions unless confirmed in writing by the Contracting Officer. The contract must be modified in writing by the Contracting Officer in the event of a change in the contract. The Contractor must communicate with the Contracting Officer on all matters pertaining to the contract terms. Proceeding with work without proper contractual coverage could result in nonpayment for that work.

The ADF Designated COTR for this effort is:
Mr. Solomon Chi, Supervisory IT Specialist
SCChi@usadf.gov
202-233-8862

9. FEDERAL HOLIDAYS

Holidays in each calendar year are identified as follow

New Year's Day – January 1;
Martin Luther King Jr.'s birthday - third Monday in January;
Presidents' Day - third Monday in February;
Memorial Day - last Monday in May;
Independence Day - July 4;
Labor Day - 1st Monday in September;
Columbus Day - second Monday in October;
Veterans' Day - November 11;
Thanksgiving Day - 4th Thursday in November;
Christmas Day - December 25

Any other day designated by Federal statute, executive order or Presidential proclamation.

When any holiday falls on Saturday, the preceding Friday is observed. When any holiday falls on Sunday, the following Monday is observed. Observance of such days by Government personnel shall not in itself be a cause for an additional period of performance, or entitlement of compensation except as set forth within the contract.

10. GOVERNMENT FACILITY CLOSURES

The Government (ADF) reserves the right to close the facilities due to weather conditions, safety, health, or medical emergencies as necessary. Contractor personnel may be required to remain on duty to maintain the facility in the event of such adverse weather conditions or emergencies.

11 CONTRACTOR PERSONNEL

The contractor shall complete work in accordance with the time and quality standards specified herein.

11.1 STANDARDS OF CONDUCT

The contractor, although in fact not a Government employee shall comply with Executive Order 11222, May 8, 1965, "Prescribing Standards of Ethical Conduct for Government officers and Employees," and comply with ADF regulations implementing this Executive order. Each contractor employee is expected to adhere to standards of conduct that reflect credit on themselves, their employer, the U.S. Department of Homeland Security and the Federal Government. The contractor shall maintain satisfactory standards of employee competency, conduct, appearance, and integrity, and for taking such disciplinary action against his/her employees as may be necessary. The Government reserves the right to direct the contractor to remove an employee from the work site for failure to comply with the standards of conduct. The contractor shall initiate immediate action to replace such an employee to maintain continuity of services at no additional cost to the Government.

11.2 CONTRACTOR BENEFITS

Since this is a Personal Services Contract (PSC) providing onsite support in the Washington, D.C. Office, ADF may provide the following benefits at the agency's discretion:

- Leave-Contractor is entitled to 2 hours of leave every pay period
- Metro Reimbursement- Metro costs reimbursable up to \$230 per month
- Medicare and Social Security Employer Contribution- ADF will pay 7.65% per salary
- Healthcare Reimbursement – ADF will reimburse the Contractor for medical insurance premiums expenses which will be determined at the time of award. The Contractor shall provide proof of payment before reimbursement will be made.

12 SECURITY REQUIREMENTS

12.1 ACCESS TO INFORMATION

ADF shall have and exercise full control over granting, denying, withholding or terminating unescorted access to government facilities and/or access to sensitive Government information for these contractor employees, based upon the need.

12.2 CONTINUED ELIGIBILITY

ADF reserves the right and prerogative to deny and/or restrict the facility and information access of any Contractor employee whose actions are in conflict with the standards of conduct, 5 CFR 2635 and 5 CFR 3801, or whom ADF determines to present a risk of compromising sensitive Government information to which he or she would have access under this contract.

The Contractor will report any adverse information coming to their attention concerning contract employees under the contract to ADF's COTR. Reports based on rumor or innuendo should not be made. The subsequent termination of employment of an employee does not obviate the requirement to submit this report. The report shall include the employees' name and social security number, along with the adverse information being reported.

ADF may require drug screening for probable cause at any time and/ or when the contractor independently identifies, circumstances where probable cause exists.

The COTR must be notified of all terminations/ resignations within five days of occurrence. The Contractor will return any expired ADF issued identification cards and building passes, or those of terminated employees to the COTR. If an identification card or building pass is not available to be returned, a report must be submitted to the COTR, referencing the pass or card number, name of individual to whom issued, the last known location and disposition of the pass or card.

13. TERMINATION

ADF may terminate performance of work under this contract as follows:

- A. ADF may terminate performance of work under this contract in whole or, from time to time, in part:
 - a. For cause, which may be effected immediately after establishing the facts warranting the termination, by giving written notice and a statement of reasons to the Contractor in the event the Contractor:
 - i. Commits a breach or violation of any obligations herein contained;
 - ii. Commits fraud in obtaining this contract;
 - iii. Is guilty as determined by ADF of misconduct in the host country.

Upon such termination, the Contractor's right to compensation shall cease when the period specified in such notice expires or the last day on which the Contractor performs services hereunder, whichever is earlier.

 - b. For the convenience of ADF, by giving not less than fifteen (15) calendar days' advance written notice to the Contractor. Upon such a termination, the Contractor's right to compensation shall cease when the period specified in such notice expires except that the contractor shall be entitled to any accrued, unused vacation leave.
- B. No cost of any kind incurred by the Contractor after the date such notice is delivered shall be reimbursed hereunder except as approved by the Contracting Officer. If any costs relating to the period subsequent to such date have been paid by ADF, the Contractor shall promptly refund to ADF any such prepayment as directed by the Contracting Officer.
- C. The Contractor, with the written consent of the Contracting Officer, may terminate this contract upon at least fifteen (15) days' written notice to the Contracting Officer.

14. OPTION TO EXTEND TERM OF THE CONTRACT

52.217-9 Option to Extend the Term of the Contract (Mar 2000)

- (a) The Government may extend the term of this contract by written notice to the Contractor within 30 days; provided that the Government gives the Contractor a preliminary written notice of its intent to extend at least 60 days before the contract expires. The preliminary notice does not commit the Government to an extension.
- (b) If the Government exercises this option, the extended contract shall be considered to include this option clause.
- (c) The total duration of this contract, including the exercise of any options under this clause, shall not exceed **10 months**.

**ATTACHMENT 2:
PRICE QUOTE****15. OFFER PRICE QUOTE:****Base Period**

Hourly Item No.	Total Description	Quantity	Rate	Price
0001	LAN Administrator	6 Months	Per Hour	
0002	Additional Surge Hours	6 Months	Per Hour	
				Total Price: \$

Option Period

Item No.	Description	Quantity	Hourly Rate	Total Price
0101	LAN Administrator	4 Months	Per Hour	
0102	Additional Surge Hours	4 Months	Per Hour	
				Total Price: \$

Grand Total:
(Base, Plus Option Period)

ATTACHMENT 3: EVALUATION FACTORS**16. EVALUATION FACTORS:**

Technical, Past Performance and Price

16.1 TECHNICAL - Factor 1**SubFactor 1- Experience****Minimum Requirements**

- A minimum of 3 years of experience working with Microsoft Windows Server 2003/2008 enterprise environments based on Microsoft Windows Active Directory architecture.
- Basic knowledge to advanced knowledge of the following: SMTP, Microsoft Office 2010 suite of Applications, Cisco Call Manager and Unity Connection, Windows 7 and XP Professional in an Enterprise environment.
- Excellent troubleshooting skills and extensive knowledge of desktop imaging and application deployment. Ability to perform backups and restore functions using Symantec's Backup Exec software.
- Basic to advanced knowledge of Networking and understanding of network architecture but not limited to Ethernet (Cat 5e) cabling, DNS and DHCP, Anti-virus and Anti-Spam technologies. Basic knowledge of Network Management and monitoring systems.
- Experience resolving complex technical problems involving multiple causal elements and/or integrated systems. Basic knowledge of VPNs and remote support.
- Ability to document projects related on on-going FISMA and Certification and Accreditation Projects and other projects as required.

SubFactor 2- Education

- Bachelor's Degree (4 years of College) in a computer related field like computer engineering, computer science, information systems, mathematics, or statistics.

SubFactor 3- Interview

All the candidates who clearly meet the Technical Experience/Education Requirements will be scheduled for an interview.

If you should be selected as a candidate for an interview, the selecting managers may pose questions with regard to your professional skill relating to verbal communications, teambuilding, time management and customer service skills.

16.2 Past Performance-Factor 2

The offeror's past performance will be evaluated after completion of the technical evaluation and interview. Evaluation will be based on information obtained from references provided by the offeror.

16.3 Price –Factor 3

Price will be evaluated to determine whether it is reasonable and if it reflects the offeror's understanding of the work.

17. BASIS OF RATING

Satisfactory Professional Reference Checks - Pass/Fail (no points assigned)

17.1 BASIS FOR AWARD:

Evaluation—Commercial Items (Jan 1999)

(a) The Government will award a contract resulting from this solicitation to the responsible offeror whose offer conforming to the solicitation will be most advantageous to the Government, price and other factors considered. The following factors shall be used to evaluate offers:

Technical and past performance, when combined, is more important than price.

(b) *Options*. The Government will evaluate offers for award purposes by adding the total price for all options to the total price for the basic requirement. The Government may determine that an offer is unacceptable if the option prices are significantly unbalanced. Evaluation of options shall not obligate the Government to exercise the option(s).

(c) A written notice of award or acceptance of an offer mailed or otherwise furnished to the successful offeror within the time for acceptance specified in the offer, shall result in a binding contract without further action by either party. Before the offer's specified expiration time, the Government may accept an offer (or part of an offer), whether or not there are negotiations after its receipt, unless a written notice of withdrawal is received before award.

ATTACHMENT 4**18. FAR CLAUSES and PROVISIONS:****FEDERAL ACQUISITION CLAUSES**

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es):

<https://www.acquisition.gov>

Instructions to Offerors-Commercial Items (Oct 2000)

- (a) *North American Industry Classification System (NAICS) code and small business size standard.* The NAICS code and small business size standard for this acquisition appear in Block 10 of the solicitation cover sheet (SF 1449). However, the small business size standard for a concern which submits an offer in its own name, but which proposes to furnish an item which it did not itself manufacture, is 500 employees.
- (b) *Submission of offers.* Submit signed and dated offers to the office specified in this solicitation at or before the exact time specified in this solicitation. Offers may be submitted on the SF 1449, letterhead stationery, or as otherwise specified in the solicitation. As a minimum, offers must show-
- (1) The solicitation number;
 - (2) The time specified in the solicitation for receipt of offers;
 - (3) The name, address, and telephone number of the offeror;
 - (4) A technical description of the items being offered in sufficient detail to evaluate compliance with the requirements in the solicitation. This may include product literature, or other documents, if necessary;
 - (5) Terms of any express warranty;
 - (6) Price and any discount terms;
 - (7) "Remit to" address, if different than mailing address;
 - (8) A completed copy of the representations and certifications at FAR 52.212-3;
 - (9) Acknowledgment of Solicitation Amendments;
 - (10) Past performance information, when included as an evaluation factor, to include recent and relevant contracts for the same or similar items and other references (including contract numbers, points of contact with telephone numbers and other relevant information); and
 - (11) If the offer is not submitted on the SF 1449, include a statement specifying the extent of agreement with all terms, conditions, and provisions included in the solicitation. Offers that fail to furnish required representations or information, or reject the terms and conditions of the solicitation may be excluded from consideration.
- (c) *Period for acceptance of offers.* The offeror agrees to hold the prices in its offer firm for 30 calendar days from the date specified for receipt of offers, unless another time period is specified in an addendum to the solicitation.
- (d) *Product samples.* When required by the solicitation, product samples shall be submitted at or prior to the time specified for receipt of offers. Unless otherwise specified in this solicitation, these samples shall be submitted at no expense to the Government, and returned at the sender's request and expense, unless they are destroyed during preaward testing.
- (e) *Multiple offers.* Offerors are encouraged to submit multiple offers presenting alternative terms and conditions or commercial items for satisfying the requirements of this solicitation. Each offer submitted will be evaluated separately.
- (f) *Late submissions, modifications, revisions, and withdrawals of offers.*

- (1) Offerors are responsible for submitting offers, and any modifications, revisions, or withdrawals, so as to reach the Government office designated in the solicitation by the time specified in the solicitation. If no time is specified in the solicitation, the time for receipt is 4:30 p.m., local time, for the designated Government office on the date that offers or revisions are due.
- (2)(i) Any offer, modification, revision, or withdrawal of an offer received at the Government office designated in the solicitation after the exact time specified for receipt of offers is "late" and will not be considered unless it is received before award is made, the Contracting Officer determines that accepting the late offer would not unduly delay the acquisition; and-
- (A) If it was transmitted through an electronic commerce method authorized by the solicitation, it was received at the initial point of entry to the Government infrastructure not later than 5:00 p.m. one working day prior to the date specified for receipt of offers; or
- (B) There is acceptable evidence to establish that it was received at the Government installation designated for receipt of offers and was under the Government's control prior to the time set for receipt of offers; or
- (C) If this solicitation is a request for proposals, it was the only proposal received.
- (ii) However, a late modification of an otherwise successful offer, that makes its terms more favorable to the Government, will be considered at any time it is received and may be accepted.
- (3) Acceptable evidence to establish the time of receipt at the Government installation includes the time/date stamp of that installation on the offer wrapper, other documentary evidence of receipt maintained by the installation, or oral testimony or statements of Government personnel.
- (4) If an emergency or unanticipated event interrupts normal Government processes so that offers cannot be received at the Government office designated for receipt of offers by the exact time specified in the solicitation, and urgent Government requirements preclude amendment of the solicitation or other notice of an extension of the closing date, the time specified for receipt of offers will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal Government processes resume.
- (5) Offers may be withdrawn by written notice received at any time before the exact time set for receipt of offers. Oral offers in response to oral solicitations may be withdrawn orally. If the solicitation authorizes facsimile offers, offers may be withdrawn via facsimile received at any time before the exact time set for receipt of offers, subject to the conditions specified in the solicitation concerning facsimile offers. An offer may be withdrawn in person by an offeror or its authorized representative if, before the exact time set for receipt of offers, the identity of the person requesting withdrawal is established and the person signs a receipt for the offer.
- (g) *Contract award (not applicable to Invitation for Bids)*. The Government intends to evaluate offers and award a contract without discussions with offerors. Therefore, the offeror's initial offer should contain the offeror's best terms from a price and technical standpoint. However, the Government reserves the right to conduct discussions if later determined by the Contracting Officer to be necessary. The Government may reject any or all offers if such action is in the public interest; accept other than the lowest offer; and waive informalities and minor irregularities in offers received.
- (h) *Multiple awards*. The Government may accept any item or group of items of an offer, unless the offeror qualifies the offer by specific limitations. Unless otherwise provided in the Schedule, offers may not be submitted for quantities less than those specified. The Government reserves the right to make an award on any item for a quantity less than the quantity offered, at the unit prices offered, unless the offeror specifies otherwise in the offer.
- (i) *Availability of requirements documents cited in the solicitation*.
- (1)(i) The GSA Index of Federal Specifications, Standards and Commercial Item Descriptions, FPMR Part 101-29, and copies of specifications, standards, and commercial item descriptions cited in this solicitation may be obtained for a fee by submitting a request to-

GSA Federal Supply Service Specifications Section
Suite 8100
470 East L'Enfant Plaza, SW
Washington, DC 20407
Telephone (202) 619-8925
Facsimile (202) 619-8978.

(ii) If the General Services Administration, Department of Agriculture, or Department of Veterans Affairs issued this solicitation, a single copy of specifications, standards, and commercial item descriptions cited in this solicitation may be obtained free of charge by submitting a request to the addressee in paragraph (i)(1)(i) of this provision. Additional copies will be issued for a fee.

(2) The DoD Index of Specifications and Standards (DoDISS) and documents listed in it may be obtained from the-

Department of Defense Single Stock Point (DoDSSP)
Building 4, Section D
700 Robbins Avenue
Philadelphia, PA 19111-5094
Telephone (215) 697-2667/2179
Facsimile (215) 697-1462.

(i) Automatic distribution may be obtained on a subscription basis.

(ii) Order forms, pricing information, and customer support information may be obtained-

(A) By telephone at (215) 697-2667/2179; or

(B) Through the DoDSSP Internet site at <http://assist.daps.mil>.

(3) Nongovernment (voluntary) standards must be obtained from the organization responsible for their preparation, publication, or maintenance.

(j) *Data Universal Numbering System (DUNS) Number*. (Applies to offers exceeding \$25,000.)

The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation "DUNS" followed by the DUNS number that identifies the offeror's name and address. If the offeror does not have a DUNS number, it should contact Dun and Bradstreet to obtain one at no charge. An offeror within the United States may call 1-800-333-0505. The offeror may obtain more information regarding the DUNS number, including locations of local Dun and Bradstreet Information Services offices for offerors located outside the United States, from the Internet home page at <http://www.customerservice@dnb.com>. If an offeror is unable to locate a local service center, it may send an e-mail to Dun and Bradstreet at globalinfo@mail.dnb.com.

(End of provision)

52.212-4 Contract Terms and Conditions—Commercial Items (June 2010)

Contract Terms and Conditions—Commercial Items (June 2010)

(a) *Inspection/Acceptance.* The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. The Government reserves the right to inspect or test any supplies or services that have been tendered for acceptance. The Government may require repair or replacement of nonconforming supplies or reperformance of nonconforming services at no increase in contract price. If repair/replacement or reperformance will not correct the defects or is not possible, the Government may seek an equitable price reduction or adequate consideration for acceptance of nonconforming supplies or services. The Government must exercise its post-acceptance rights—

(1) Within a reasonable time after the defect was discovered or should have been discovered; and

(2) Before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

(b) *Assignment.* The Contractor or its assignee may assign its rights to receive payment due as a result of performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency in accordance with the Assignment of Claims Act ([31 U.S.C. 3727](#)). However, when a third party makes payment (*e.g.*, use of the Governmentwide commercial purchase card), the Contractor may not assign its rights to receive payment under this contract.

(c) *Changes.* Changes in the terms and conditions of this contract may be made only by written agreement of the parties.

(d) *Disputes.* This contract is subject to the Contract Disputes Act of 1978, as amended ([41 U.S.C. 601-613](#)). Failure of the parties to this contract to reach agreement on any request for equitable adjustment, claim, appeal or action arising under or relating to this contract shall be a dispute to be resolved in accordance with the clause at FAR [52.233-1](#), Disputes, which is incorporated herein by reference. The Contractor shall proceed diligently with performance of this contract, pending final resolution of any dispute arising under the contract.

(e) *Definitions.* The clause at FAR [52.202-1](#), Definitions, is incorporated herein by reference.

(f) *Excusable delays.* The Contractor shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

(g) *Invoice.*

(1) The Contractor shall submit an original invoice and three copies (or electronic invoice, if authorized) to the address designated in the contract to receive invoices. An invoice must include—

- (i) Name and address of the Contractor;
- (ii) Invoice date and number;
- (iii) Contract number, contract line item number and, if applicable, the order number;
- (iv) Description, quantity, unit of measure, unit price and extended price of the items delivered;
- (v) Shipping number and date of shipment, including the bill of lading number and weight of shipment if shipped on Government bill of lading;
- (vi) Terms of any discount for prompt payment offered;
- (vii) Name and address of official to whom payment is to be sent;
- (viii) Name, title, and phone number of person to notify in event of defective invoice; and
- (ix) Taxpayer Identification Number (TIN). The Contractor shall include its TIN on the invoice only if required elsewhere in this contract.
- (x) Electronic funds transfer (EFT) banking information.

(A) The Contractor shall include EFT banking information on the invoice only if required elsewhere in this contract.

(B) If EFT banking information is not required to be on the invoice, in order for the invoice to be a proper invoice, the Contractor shall have submitted correct EFT banking information in accordance with the applicable solicitation provision, contract clause (*e.g.*, [52.232-33](#), Payment by Electronic Funds Transfer—Central Contractor Registration, or [52.232-34](#), Payment by Electronic Funds Transfer—Other Than Central Contractor Registration), or applicable agency procedures.

(C) EFT banking information is not required if the Government waived the requirement to pay by EFT.

(2) Invoices will be handled in accordance with the Prompt Payment Act ([31 U.S.C. 3903](#)) and Office of Management and Budget (OMB) prompt payment regulations at 5 CFR Part 1315.

(h) *Patent indemnity.* The Contractor shall indemnify the Government and its officers, employees and agents against liability, including costs, for actual or alleged direct or contributory infringement of, or inducement to infringe, any United States or foreign patent, trademark or copyright, arising out of the performance of this contract, provided the Contractor is reasonably notified of such claims and proceedings.

(i) Payment.—

(1) *Items accepted.* Payment shall be made for items accepted by the Government that have been delivered to the delivery destinations set forth in this contract.

(2) *Prompt payment.* The Government will make payment in accordance with the Prompt Payment Act ([31 U.S.C. 3903](#)) and prompt payment regulations at 5 CFR Part 1315.

(3) *Electronic Funds Transfer (EFT).* If the Government makes payment by EFT, see [52.212-5\(b\)](#) for the appropriate EFT clause.

(4) *Discount.* In connection with any discount offered for early payment, time shall be computed from the date of the invoice. For the purpose of computing the discount earned, payment shall be considered to have been made on the date which appears on the payment check or the specified payment date if an electronic funds transfer payment is made.

(5) *Overpayments.* If the Contractor becomes aware of a duplicate contract financing or invoice payment or that the Government has otherwise overpaid on a contract financing or invoice payment, the Contractor shall—

(i) Remit the overpayment amount to the payment office cited in the contract along with a description of the overpayment including the—

(A) Circumstances of the overpayment (*e.g.*, duplicate payment, erroneous payment, liquidation errors, date(s) of overpayment);

(B) Affected contract number and delivery order number, if applicable;

(C) Affected contract line item or subline item, if applicable; and

(D) Contractor point of contact.

(ii) Provide a copy of the remittance and supporting documentation to the Contracting Officer.

(6) *Interest.*

(i) All amounts that become payable by the Contractor to the Government under this contract shall bear simple interest from the date due until paid unless paid within 30 days of becoming due. The interest rate shall be the interest rate established by the Secretary of the Treasury as provided in Section 611 of the Contract Disputes Act of 1978 (Public Law 95-563), which is applicable to the period in which the amount becomes due, as provided in (i)(6)(v) of this clause, and then at the rate applicable for each six-month period as fixed by the Secretary until the amount is paid.

(ii) The Government may issue a demand for payment to the Contractor upon finding a debt is due under the contract.

(iii) *Final decisions.* The Contracting Officer will issue a final decision as required by [33.211](#) if—

(A) The Contracting Officer and the Contractor are unable to reach agreement on the existence or amount of a debt within 30 days;

(B) The Contractor fails to liquidate a debt previously demanded by the Contracting Officer within the timeline specified in the demand for payment unless the amounts were not repaid because the Contractor has requested an installment payment agreement; or

(C) The Contractor requests a deferment of collection on a debt previously demanded by the Contracting Officer (see [32.607-2](#)).

(iv) If a demand for payment was previously issued for the debt, the demand for payment included in the final decision shall identify the same due date as the original demand for payment.

(v) Amounts shall be due at the earliest of the following dates:

(A) The date fixed under this contract.

(B) The date of the first written demand for payment, including any demand for payment resulting from a default termination.

(vi) The interest charge shall be computed for the actual number of calendar days involved beginning on the due date and ending on—

(A) The date on which the designated office receives payment from the Contractor;

(B) The date of issuance of a Government check to the Contractor from which an amount otherwise payable has been withheld as a credit against the contract debt; or

(C) The date on which an amount withheld and applied to the contract debt would otherwise have become payable to the Contractor.

(vii) The interest charge made under this clause may be reduced under the procedures prescribed in [32.608-2](#) of the Federal Acquisition Regulation in effect on the date of this contract.

(j) *Risk of loss.* Unless the contract specifically provides otherwise, risk of loss or damage to the supplies provided under this contract shall remain with the Contractor until, and shall pass to the Government upon:

(1) Delivery of the supplies to a carrier, if transportation is f.o.b. origin; or

(2) Delivery of the supplies to the Government at the destination specified in the contract, if transportation is f.o.b. destination.

(k) *Taxes.* The contract price includes all applicable Federal, State, and local taxes and duties.

(l) *Termination for the Government's convenience.* The Government reserves the right to terminate this contract, or any part hereof, for its sole convenience. In the event of such termination, the Contractor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of this contract, the Contractor shall be paid a percentage of the contract price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges the Contractor can demonstrate to the satisfaction of the Government using its standard record keeping system, have resulted from the termination. The Contractor shall not be required to comply with the cost

accounting standards or contract cost principles for this purpose. This paragraph does not give the Government any right to audit the Contractor's records. The Contractor shall not be paid for any work performed or costs incurred which reasonably could have been avoided.

(m) *Termination for cause.* The Government may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the Government, upon request, with adequate assurances of future performance. In the event of termination for cause, the Government shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to the Government for any and all rights and remedies provided by law. If it is determined that the Government improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

(n) *Title.* Unless specified elsewhere in this contract, title to items furnished under this contract shall pass to the Government upon acceptance, regardless of when or where the Government takes physical possession.

(o) *Warranty.* The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.

(p) *Limitation of liability.* Except as otherwise provided by an express warranty, the Contractor will not be liable to the Government for consequential damages resulting from any defect or deficiencies in accepted items.

(q) *Other compliances.* The Contractor shall comply with all applicable Federal, State and local laws, executive orders, rules and regulations applicable to its performance under this contract.

(r) *Compliance with laws unique to Government contracts.* The Contractor agrees to comply with [31 U.S.C. 1352](#) relating to limitations on the use of appropriated funds to influence certain Federal contracts; [18 U.S.C. 431](#) relating to officials not to benefit; [40 U.S.C. 3701](#), *et seq.*, Contract Work Hours and Safety Standards Act; [41 U.S.C. 51-58](#), Anti-Kickback Act of 1986; [41 U.S.C. 265](#) and [10 U.S.C. 2409](#) relating to whistleblower protections; [49 U.S.C. 40118](#), Fly American; and [41 U.S.C. 423](#) relating to procurement integrity.

(s) *Order of precedence.* Any inconsistencies in this solicitation or contract shall be resolved by giving precedence in the following order:

- (1) The schedule of supplies/services.
- (2) The Assignments, Disputes, Payments, Invoice, Other Compliances, and Compliance with Laws Unique to Government Contracts paragraphs of this clause.
- (3) The clause at [52.212-5](#).
- (4) Addenda to this solicitation or contract, including any license agreements for computer software.
- (5) Solicitation provisions if this is a solicitation.
- (6) Other paragraphs of this clause.

(7) The [Standard Form 1449](#).

(8) Other documents, exhibits, and attachments.

(9) The specification.

(t) Central Contractor Registration (CCR).

(1) Unless exempted by an addendum to this contract, the Contractor is responsible during performance and through final payment of any contract for the accuracy and completeness of the data within the CCR database, and for any liability resulting from the Government's reliance on inaccurate or incomplete data. To remain registered in the CCR database after the initial registration, the Contractor is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in the CCR database to ensure it is current, accurate and complete. Updating information in the CCR does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.

(2)(i) If a Contractor has legally changed its business name, "doing business as" name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in FAR [Subpart 42.12](#), the Contractor shall provide the responsible Contracting Officer a minimum of one business day's written notification of its intention to (A) change the name in the CCR database; (B) comply with the requirements of [Subpart 42.12](#); and (C) agree in writing to the timeline and procedures specified by the responsible Contracting Officer.

The Contractor must provide with the notification sufficient documentation to support the legally changed name.

(ii) If the Contractor fails to comply with the requirements of paragraph (t)(2)(i) of this clause, or fails to perform the agreement at paragraph (t)(2)(i)(C) of this clause, and, in the absence of a properly executed novation or change-of-name agreement, the CCR information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect information within the meaning of the "Suspension of Payment" paragraph of the electronic funds transfer (EFT) clause of this contract.

(3) The Contractor shall not change the name or address for EFT payments or manual payments, as appropriate, in the CCR record to reflect an assignee for the purpose of assignment of claims (see [Subpart 32.8](#), Assignment of Claims). Assignees shall be separately registered in the CCR database. Information provided to the Contractor's CCR record that indicates payments, including those made by EFT, to an ultimate recipient other than that Contractor will be considered to be incorrect information within the meaning of the "Suspension of payment" paragraph of the EFT clause of this contract.

(4) Offerors and Contractors may obtain information on registration and annual confirmation requirements via the internet at <http://www.ccr.gov> or by calling 1-888-227-2423 or 269-961-5757.

52.212-5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items. (Apr 2011)

(a) The Contractor shall comply with the following Federal Acquisition Regulation (FAR) clauses, which are incorporated in this contract by reference, to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

(1) [52.222-50](#), Combating Trafficking in Persons (Feb 2009) ([22 U.S.C. 7104\(g\)](#)).
___ Alternate I (Aug 2007) of [52.222-50](#) ([22 U.S.C. 7104\(g\)](#)).

(2) [52.233-3](#), Protest After Award (Aug 1996) ([31 U.S.C. 3553](#)). (3) [52.233-4](#), Applicable Law for Breach of Contract Claim (Oct 2004) (Pub. L. 108-77, 108-78).

(b) The Contractor shall comply with the FAR clauses in this paragraph (b) that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

[Contracting Officer check as appropriate.]

___ (1) [52.203-6](#), Restrictions on Subcontractor Sales to the Government (Sept 2006), with Alternate I (Oct 1995) ([41 U.S.C. 253g](#) and [10 U.S.C. 2402](#)).

___ (2) [52.203-13](#), Contractor Code of Business Ethics and Conduct (Apr 2010) (Pub. L. 110-252, Title VI, Chapter 1 ([41 U.S.C. 251 note](#))).

___ (3) [52.203-15](#), Whistleblower Protections under the American Recovery and Reinvestment Act of 2009 (June 2010) (Section 1553 of Pub. L. 111-5). (Applies to contracts funded by the American Recovery and Reinvestment Act of 2009.)

___ (4) [52.204-10](#), Reporting Executive Compensation and First-Tier Subcontract Awards (Jul 2010) (Pub. L. 109-282) ([31 U.S.C. 6101 note](#)).

___ (5) [52.204-11](#), American Recovery and Reinvestment Act—Reporting Requirements (Jul 2010) (Pub. L. 111-5).

___ (6) [52.209-6](#), Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (DEC 2010) ([31 U.S.C. 6101 note](#)). (Applies to contracts over \$30,000). (Not applicable to subcontracts for the acquisition of commercially available off-the-shelf items).

___ (7) [52.219-3](#), Notice of Total HUBZone Set-Aside or Sole-Source Award (Jan 2011) ([15 U.S.C. 657a](#)).

___ (8) [52.219-4](#), Notice of Price Evaluation Preference for HUBZone Small Business Concerns (Jan 2011) (if the offeror elects to waive the preference, it shall so indicate in its offer) ([15 U.S.C. 657a](#)).

___ (9) [Reserved]

___ (10)(i) [52.219-6](#), Notice of Total Small Business Set-Aside (June 2003) ([15 U.S.C. 644](#)).

___ (ii) Alternate I (Oct 1995) of [52.219-6](#).

___ (iii) Alternate II (Mar 2004) of [52.219-6](#).

___ (11)(i) [52.219-7](#), Notice of Partial Small Business Set-Aside (June 2003) ([15 U.S.C. 644](#)).

___ (ii) Alternate I (Oct 1995) of [52.219-7](#).

___ (iii) Alternate II (Mar 2004) of [52.219-7](#).

___ (12) [52.219-8](#), Utilization of Small Business Concerns (Jan 2011) ([15 U.S.C. 637\(d\)\(2\)](#) and (3)).

___ (13)(i) [52.219-9](#), Small Business Subcontracting Plan (Jan 2011) ([15 U.S.C. 637\(d\)\(4\)](#)).

- ___ (ii) Alternate I (Oct 2001) of [52.219-9](#).
- ___ (iii) Alternate II (Oct 2001) of [52.219-9](#).
- ___ (iv) Alternate III (Jul 2010) of [52.219-9](#).
- ___ (14) [52.219-14](#), Limitations on Subcontracting (Dec 1996) ([15 U.S.C. 637\(a\)\(14\)](#)).
- ___ (15) [52.219-16](#), Liquidated Damages—Subcon-tracting Plan (Jan 1999) ([15 U.S.C. 637\(d\)\(4\)\(F\)\(i\)](#)).
- ___ (16)(i) [52.219-23](#), Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns (Oct 2008) ([10 U.S.C. 2323](#)) (if the offeror elects to waive the adjustment, it shall so indicate in its offer).
- ___ (ii) Alternate I (June 2003) of [52.219-23](#).
- ___ (17) [52.219-25](#), Small Disadvantaged Business Participation Program—Disadvantaged Status and Reporting (Dec 2010) (Pub. L. 103-355, section 7102, and [10 U.S.C. 2323](#)).
- ___ (18) [52.219-26](#), Small Disadvantaged Business Participation Program—Incentive Subcontracting (Oct 2000) (Pub. L. 103-355, section 7102, and [10 U.S.C. 2323](#)).
- ___ (19) [52.219-27](#), Notice of Total Service-Disabled Veteran-Owned Small Business Set-Aside (May 2004) ([15 U.S.C. 657 f](#)).
- ___ (20) [52.219-28](#), Post Award Small Business Program Rerepresentation (Apr 2009) ([15 U.S.C. 632\(a\)\(2\)](#)).
- ___ (21) [52.219-29](#) Notice of Total Set-Aside for Economically Disadvantaged Women-Owned Small Business (EDWOSB) Concerns (Apr 2011).
- ___ (22) [52.219-30](#) Notice of Total Set-Aside for Women-Owned Small Business (WOSB) Concerns Eligible Under the WOSB Program (Apr 2011).
- _X_ (23) [52.222-3](#), Convict Labor (June 2003) (E.O. 11755).
- ___ (24) [52.222-19](#), Child Labor—Cooperation with Authorities and Remedies (Jul 2010) (E.O. 13126).
- ___ (25) [52.222-21](#), Prohibition of Segregated Facilities (Feb 1999).
- ___ (26) [52.222-26](#), Equal Opportunity (Mar 2007) (E.O. 11246).
- ___ (27) [52.222-35](#), Equal Opportunity for Veterans (Sep 2010)([38 U.S.C. 4212](#)).
- ___ (28) [52.222-36](#), Affirmative Action for Workers with Disabilities (Oct 2010) ([29 U.S.C. 793](#)).
- ___ (29) [52.222-37](#), Employment Reports on Veterans (Sep 2010) (38 U.S.C. 4212).
- ___ (30) [52.222-40](#), Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (E.O. 13496).
- ___ (31) [52.222-54](#), Employment Eligibility Verification (Jan 2009). (Executive Order 12989). (Not applicable to the acquisition of commercially available off-the-shelf items or certain other types of commercial items as prescribed in [22.1803](#).)
- ___ (32)(i) [52.223-9](#), Estimate of Percentage of Recovered Material Content for EPA—Designated Items (May 2008) ([42 U.S.C. 6962\(c\)\(3\)\(A\)\(ii\)](#)). (Not applicable to the acquisition of commercially available off-the-shelf items.)
- ___ (ii) Alternate I (May 2008) of [52.223-9](#) ([42 U.S.C. 6962\(i\)\(2\)\(C\)](#)). (Not applicable to the acquisition of commercially available off-the-shelf items.)
- ___ (33) [52.223-15](#), Energy Efficiency in Energy-Consuming Products (Dec 2007) ([42 U.S.C. 8259b](#)).

- ___ (34)(i) [52.223-16](#), IEEE 1680 Standard for the Environmental Assessment of Personal Computer Products (Dec 2007) (E.O. 13423).
- ___ (ii) Alternate I (Dec 2007) of [52.223-16](#).
- _X_ (35) [52.223-18](#), Contractor Policy to Ban Text Messaging While Driving (Sep 2010) (E.O. 13513).
- ___ (36) [52.225-1](#), Buy American Act—Supplies (Feb 2009) ([41 U.S.C. 10a-10d](#)).
- ___ (37)(i) [52.225-3](#), Buy American Act—Free Trade Agreements—Israeli Trade Act (June 2009) ([41 U.S.C. 10a-10d](#), [19 U.S.C. 3301](#) note, [19 U.S.C. 2112](#) note, [19 U.S.C. 3805](#) note, Pub. L. 108-77, 108-78, 108-286, 108-302, 109-53, 109-169, 109-283, and 110-138).
- ___ (ii) Alternate I (Jan 2004) of [52.225-3](#).
- ___ (iii) Alternate II (Jan 2004) of [52.225-3](#).
- ___ (38) [52.225-5](#), Trade Agreements (Aug 2009) ([19 U.S.C. 2501](#), *et seq.*, [19 U.S.C. 3301](#) note).
- ___ (39) [52.225-13](#), Restrictions on Certain Foreign Purchases (June 2008) (E.O.'s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).
- ___ (40) [52.226-4](#), Notice of Disaster or Emergency Area Set-Aside (Nov 2007) ([42 U.S.C. 5150](#)).
- ___ (41) [52.226-5](#), Restrictions on Subcontracting Outside Disaster or Emergency Area (Nov 2007) ([42 U.S.C. 5150](#)).
- ___ (42) [52.232-29](#), Terms for Financing of Purchases of Commercial Items (Feb 2002) ([41 U.S.C. 255\(f\)](#), [10 U.S.C. 2307\(f\)](#)).
- ___ (43) [52.232-30](#), Installment Payments for Commercial Items (Oct 1995) ([41 U.S.C. 255\(f\)](#), [10 U.S.C. 2307\(f\)](#)).
- X_ (44) [52.232-33](#), Payment by Electronic Funds Transfer—Central Contractor Registration (Oct 2003) ([31 U.S.C. 3332](#)).
- ___ (45) [52.232-34](#), Payment by Electronic Funds Transfer—Other than Central Contractor Registration (May 1999) ([31 U.S.C. 3332](#)).
- ___ (46) [52.232-36](#), Payment by Third Party (Feb 2010) ([31 U.S.C. 3332](#)).
- ___ (47) [52.239-1](#), Privacy or Security Safeguards (Aug 1996) ([5 U.S.C. 552a](#)).
- ___ (48)(i) [52.247-64](#), Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) ([46 U.S.C. Appx. 1241\(b\)](#) and [10 U.S.C. 2631](#)).
- ___ (ii) Alternate I (Apr 2003) of [52.247-64](#).
- (c) The Contractor shall comply with the FAR clauses in this paragraph (c), applicable to commercial services, that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items:
- [Contracting Officer check as appropriate.]
- ___ (1) [52.222-41](#), Service Contract Act of 1965 (Nov 2007) ([41 U.S.C. 351](#), *et seq.*).
- ___ (2) [52.222-42](#), Statement of Equivalent Rates for Federal Hires (May 1989) ([29 U.S.C. 206](#) and [41 U.S.C. 351](#), *et seq.*).
- ___ (3) [52.222-43](#), Fair Labor Standards Act and Service Contract Act—Price Adjustment (Multiple Year and Option Contracts) (Sep 2009) ([29 U.S.C. 206](#) and [41 U.S.C. 351](#), *et seq.*).

— (4) [52.222-44](#), Fair Labor Standards Act and Service Contract Act—Price Adjustment (Sep 2009) ([29 U.S.C. 206](#) and [41 U.S.C. 351](#), *et seq.*).

— (5) [52.222-51](#), Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements (Nov 2007) ([41 351](#), *et seq.*).

— (6) [52.222-53](#), Exemption from Application of the Service Contract Act to Contracts for Certain Services—Requirements (Feb 2009) ([41 U.S.C. 351](#), *et seq.*).

— (7) [52.226-6](#), Promoting Excess Food Donation to Nonprofit Organizations (Mar 2009) (Pub. L. 110-247).

— (8) [52.237-11](#), Accepting and Dispensing of \$1 Coin (Sept 2008) ([31 U.S.C. 5112\(p\)\(1\)](#)).

(d) *Comptroller General Examination of Record*. The Contractor shall comply with the provisions of this paragraph (d) if this contract was awarded using other than sealed bid, is in excess of the simplified acquisition threshold, and does not contain the clause at [52.215-2](#), Audit and Records—Negotiation.

(1) The Comptroller General of the United States, or an authorized representative of the Comptroller General, shall have access to and right to examine any of the Contractor's directly pertinent records involving transactions related to this contract.

(2) The Contractor shall make available at its offices at all reasonable times the records, materials, and other evidence for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in FAR [Subpart 4.7](#), Contractor Records Retention, of the other clauses of this contract. If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement. Records relating to appeals under the disputes clause or to litigation or the settlement of claims arising under or relating to this contract shall be made available until such appeals, litigation, or claims are finally resolved.

(3) As used in this clause, records include books, documents, accounting procedures and practices, and other data, regardless of type and regardless of form. This does not require the Contractor to create or maintain any record that the Contractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(e)(1) Notwithstanding the requirements of the clauses in paragraphs (a), (b), (c), and (d) of this clause, the Contractor is not required to flow down any FAR clause, other than those in this paragraph (e)(1) in a subcontract for commercial items. Unless otherwise indicated below, the extent of the flow down shall be as required by the clause—

(i) [52.203-13](#), Contractor Code of Business Ethics and Conduct (Apr 2010) (Pub. L. 110-252, Title VI, Chapter 1 ([41 U.S.C. 251 note](#))).

(ii) [52.219-8](#), Utilization of Small Business Concerns (Dec 2010) ([15 U.S.C. 637\(d\)\(2\)](#) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$650,000 (\$1.5 million for construction of any public facility), the subcontractor must include [52.219-8](#) in lower tier subcontracts that offer subcontracting opportunities.

(iii) [Reserved]

(iv) [52.222-26](#), Equal Opportunity (Mar 2007) (E.O. 11246).

(v) [52.222-35](#), Equal Opportunity for Veterans (Sep 2010) ([38 U.S.C. 4212](#)).

(vi) [52.222-36](#), Affirmative Action for Workers with Disabilities (Oct 2010) ([29 U.S.C. 793](#)).

(vii) [52.222-40](#), Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (E.O. 13496). Flow down required in accordance with paragraph (f) of FAR clause [52.222-40](#).

(viii) [52.222-41](#), Service Contract Act of 1965 (Nov 2007) ([41 U.S.C. 351](#), *et seq.*).

(ix) [52.222-50](#), Combating Trafficking in Persons (Feb 2009) ([22 U.S.C. 7104\(g\)](#)).

____Alternate I (Aug 2007) of [52.222-50](#) ([22 U.S.C. 7104\(g\)](#)).

(x) [52.222-51](#), Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment-Requirements (Nov 2007) ([41 U.S.C. 351](#), *et seq.*).

(xi) [52.222-53](#), Exemption from Application of the Service Contract Act to Contracts for Certain Services-Requirements (Feb 2009) ([41 U.S.C. 351](#), *et seq.*).

(xii) [52.222-54](#), Employment Eligibility Verification (Jan 2009).

(xiii) [52.226-6](#), Promoting Excess Food Donation to Nonprofit Organizations (Mar 2009) (Pub. L. 110-247). Flow down required in accordance with paragraph (e) of FAR clause [52.226-6](#).

(xiv) [52.247-64](#), Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) ([46 U.S.C. Appx. 1241\(b\)](#) and [10 U.S.C. 2631](#)). Flow down required in accordance with paragraph (d) of FAR clause [52.247-64](#).

(2) While not required, the contractor may include in its subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.

(End of clause)

Alternate I (Feb 2000). As prescribed in [12.301\(b\)\(4\)\(i\)](#), delete paragraph (d) from the basic clause, redesignate paragraph (e) as paragraph (d), and revise the reference to “paragraphs (a), (b), (c), or (d) of this clause” in the redesignated paragraph (d) to read “paragraphs (a), (b), and (c) of this clause.”

Alternate II (Dec 2010). As prescribed in [12.301\(b\)\(4\)\(ii\)](#), substitute the following paragraphs (d)(1) and (e)(1) for paragraphs (d)(1) and (e)(1) of the basic clause as follows:

(d)(1) The Comptroller General of the United States, an appropriate Inspector General appointed under section 3 or 8G of the Inspector General Act of 1978 ([5 U.S.C. App.](#)), or an authorized representative of either of the foregoing officials shall have access to and right to—

(i) Examine any of the Contractor’s or any subcontractors’ records that pertain to, and involve transactions relating to, this contract; and

(ii) Interview any officer or employee regarding such transactions.

(e)(1) Notwithstanding the requirements of the clauses in paragraphs (a), (b), and (c), of this clause, the Contractor is not required to flow down any FAR clause in a subcontract for commercial items, other than—

(i) *Paragraph (d) of this clause.* This paragraph flows down to all subcontracts, except the authority of the Inspector General under paragraph (d)(1)(ii) does not flow down; and

(ii) *Those clauses listed in this paragraph (e)(1).* Unless otherwise indicated below, the extent of the flow down shall be as required by the clause—

(A) [52.203-13](#), Contractor Code of Business Ethics and Conduct (Apr 2010) (Pub. L. 110-252, Title VI, Chapter 1 ([41 U.S.C. 251 note](#))).

(B) [52.203-15](#), Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (June 2010) (Section 1553 of Pub. L. 111-5).

(C) [52.219-8](#), Utilization of Small Business Concerns (Dec 2010) ([15 U.S.C. 637\(d\)\(2\) and \(3\)](#)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$650,000 (\$1.5 million for construction of any public facility), the subcontractor must include [52.219-8](#) in lower tier subcontracts that offer subcontracting opportunities.

(D) [52.222-26](#), Equal Opportunity (Mar 2007) (E.O. 11246).

(E) [52.222-35](#), Equal Opportunity for Veterans (Sep 2010) ([38 U.S.C. 4212](#)).

(F) [52.222-36](#), Affirmative Action for Workers with Disabilities (Oct 2010) ([29 U.S.C. 793](#)).

(G) [52.222-40](#), Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (E.O. 13496). Flow down required in accordance with paragraph (f) of FAR clause [52.222-40](#).

(H) [52.222-41](#), Service Contract Act of 1965 (Nov 2007) ([41 U.S.C. 351](#), *et seq.*).

(I) [52.222-50](#), Combating Trafficking in Persons (Feb 2009) ([22 U.S.C. 7104\(g\)](#)).

(J) [52.222-51](#), Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements (Nov 2007) ([41 U.S.C. 351](#), *et seq.*).

(K) [52.222-53](#), Exemption from Application of the Service Contract Act to Contracts for Certain Services—Requirements (Feb 2009) ([41 U.S.C. 351](#), *et seq.*).

(L) [52.222-54](#), Employment Eligibility Verification (Jan 2009).

(M) [52.226-6](#), Promoting Excess Food Donation to Nonprofit Organizations. (Mar 2009) (Pub. L. 110-247). Flow down required in accordance with paragraph (e) of FAR clause [52.226-6](#).

(N) [52.247-64](#), Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) ([46 U.S.C. Appx. 1241\(b\)](#) and [10 U.S.C. 2631](#)). Flow down required in accordance with paragraph (d) of FAR clause [52.247-64](#).

(a) The Contractor shall comply with the following Federal Acquisition Regulation (FAR) clauses that are incorporated by reference:

(1) The clauses listed below implement provisions of law or Executive order:

(i) [52.222-3](#), Convict Labor (June 2003) (E.O. 11755).

(ii) [52.222-21](#), Prohibition of Segregated Facilities (Feb 1999) (E.O. 11246).

(iii) [52.222-26](#), Equal Opportunity (Mar 2007) (E.O. 11246).

(iv) [52.222-50](#), Combating Trafficking in Persons (Feb 2009) ([22 U.S.C. 7104\(g\)](#)).

(v) [52.225-13](#), Restrictions on Certain Foreign Purchases (June 2008) (E.o.s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).

(vi) [52.233-3](#), Protest After Award (Aug 1996) ([31 U.S.C. 3553](#)).

(vii) [52.233-4](#), Applicable Law for Breach of Contract Claim (OCT 2004) (Pub. L. 108-77, 108-78).

(2) Listed below are additional clauses that apply:

(i) [52.204-10](#), Reporting Executive Compensation and First-Tier Subcontract Awards (Jul 2010) (Pub. L. 109-282) ([31 U.S.C. 6101 note](#)).

(ii) [52.232-1](#), Payments (Apr 1984).

- (iii) [52.232-8](#), Discounts for Prompt Payment (Feb 2002).
- (iv) [52.232-11](#), Extras (Apr 1984).
- (v) [52.232-25](#), Prompt Payment (Oct 2008).
- (vi) [52.233-1](#), Disputes (July 2002).
- (vii) [52.244-6](#), Subcontracts for Commercial Items (Jan 2011).
- (viii) [52.253-1](#), Computer Generated Forms (Jan 1991).

(b) The Contractor shall comply with the following FAR clauses, incorporated by reference, unless the circumstances do not apply:

(1) The clauses listed below implement provisions of law or Executive order:

- (i) [52.222-19](#), Child Labor—Cooperation with Authorities and Remedies (Jul 2010) (E.O. 13126). (Applies to contracts for supplies exceeding the micro-purchase threshold.)
- (ii) [52.222-20](#), Walsh-Healey Public Contracts Act (Oct 2010) ([41 U.S.C. 35-45](#)) (Applies to supply contracts over \$15,000 in the United States, Puerto Rico, or the U.S. Virgin Islands).
- (iii) [52.222-35](#), Equal Opportunity for Veterans (Sep 2010) ([38 U.S.C. 4212](#)) (applies to contracts of \$100,000 or more).
- (iv) [52.222-36](#), Affirmative Action for Workers with Disabilities (Oct 2010) ([29 U.S.C. 793](#)). (Applies to contracts over \$15,000, unless the work is to be performed outside the United States by employees recruited outside the United States.) (For purposes of this clause, *United States* includes the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island.)
- (v) [52.222-37](#), Employment Reports on Veterans (Sep 2010) ([38 U.S.C. 4212](#)) (applies to contracts of \$100,000 or more).
- (vi) [52.222-41](#), Service Contract Act of 1965 (Nov 2007) ([41 U.S.C. 351](#), *et seq.*) (Applies to service contracts over \$2,500 that are subject to the Service Contract Act and will be performed in the United States, District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, Johnston Island, Wake Island, or the outer continental shelf lands.)
- (vii) [52.223-5](#), Pollution Prevention and Right-to-Know Information (Aug 2003) (E.O. 13148) (Applies to services performed on Federal facilities).
- (viii) [52.223-15](#), Energy Efficiency in Energy-Consuming Products (DEC 2007) ([42 U.S.C. 8259b](#)) (Unless exempt pursuant to [23.204](#), applies to contracts when energy-consuming products listed in the ENERGY STAR® Program or Federal Energy Management Program (FEMP) will be—

- (A) Delivered;
- (B) Acquired by the Contractor for use in performing services at a Federally-controlled facility;
- (C) Furnished by the Contractor for use by the Government; or
- (D) Specified in the design of a building or work, or incorporated during its construction, renovation, or maintenance.)

(ix) [52.225-1](#), Buy American Act—Supplies (Feb 2009) ([41 U.S.C. 10a-10d](#)) (Applies to contracts for supplies, and to contracts for services involving the furnishing of supplies, for use in the United States or its outlying areas, if the value of the supply contract or supply portion of a service contract exceeds the micro-purchase threshold and the acquisition—

- (A) Is set aside for small business concerns; or
- (B) Cannot be set aside for small business concerns (see [19.502-2](#)), and does not exceed \$25,000).

- (x) [52.232-33](#), Payment by Electronic Funds Transfer—Central Contractor Registration (Oct 2003). (Applies when the payment will be made by electronic funds transfer (EFT) and the payment office uses the Central Contractor Registration (CCR) database as its source of EFT information.)
- (xi) [52.232-34](#), Payment by Electronic Funds Transfer—Other than Central Contractor Registration (MAY 1999). (Applies when the payment will be made by EFT and the payment office does not use the CCR database as its source of EFT information.)
- (xii) [52.247-64](#), Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) ([46 U.S.C. App. 1241](#)). (Applies to supplies transported by ocean vessels (except for the types of subcontracts listed at [47.504\(d\)](#).)

(2) Listed below are additional clauses that may apply:

- (i) [52.209-6](#), Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (Dec 2010) (Applies to contracts over \$30,000). (Not applicable to subcontracts for the acquisition of commercially available off-the-shelf items).
 - (ii) [52.211-17](#), Delivery of Excess Quantities (Sept 1989) (Applies to fixed-price supplies).
 - (iii) [52.226-6](#), Promoting Excess Food Donation to Nonprofit Organizations (Mar 2009) (Pub. L. 110-247) (Applies to contracts greater than \$25,000 that provide for the provision, the service, or the sale of food in the United States.)
 - (iv) [52.247-29](#), F.o.b. Origin (Feb 2006) (Applies to supplies if delivery is f.o.b. origin).
 - (v) [52.247-34](#), F.o.b. Destination (Nov 1991) (Applies to supplies if delivery is f.o.b. destination).
- (c) FAR [52.252-2](#), *Clauses Incorporated by Reference* (Feb 1998). This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es):

www.arnet.gov/far

(d) *Inspection/Acceptance*. The Contractor shall tender for acceptance only those items that conform to the requirements of this contract. The Government reserves the right to inspect or test any supplies or services that have been tendered for acceptance. The Government may require repair or replacement of nonconforming supplies or reperformance of nonconforming services at no increase in contract price. The Government must exercise its postacceptance rights—

(1) Within a reasonable period of time after the defect was discovered or should have been discovered; and

(2) Before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

(e) *Excusable delays*. The Contractor shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence, such as acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

(f) *Termination for the Government's convenience.* The Government reserves the right to terminate this contract, or any part hereof, for its sole convenience. In the event of such termination, the Contractor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of this contract, the Contractor shall be paid a percentage of the contract price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges that the Contractor can demonstrate to the satisfaction of the Government, using its standard record keeping system, have resulted from the termination. The Contractor shall not be required to comply with the cost accounting standards or contract cost principles for this purpose. This paragraph does not give the Government any right to audit the Contractor's records. The Contractor shall not be paid for any work performed or costs incurred that reasonably could have been avoided.

(g) *Termination for cause.* The Government may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the Government, upon request, with adequate assurances of future performance. In the event of termination for cause, the Government shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to the Government for any and all rights and remedies provided by law. If it is determined that the Government improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

(h) *Warranty.* The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.

(End of clause)